



Flathead Conservation District
133 Interstate Lane, Kalispell, MT 59901
www.flatheadcd.org 406-752-4220

CALL TO ORDER & ATTENDANCE

Chair Ronald Buentemeier called the December 10, 2018, 310-Stream Permit meeting to order at 7:00 P.M. in the conference room.

Board members present:

Ronald Buentemeier, Chair; Dean Sirucek, Secretary/Treasurer; Lori Curtis, Supervisor; John Ellis, Supervisor; Mark Siderius, Supervisor; Verdell Jackson, Supervisor; being a quorum of the Board.

Board members absent: Pete Woll, Vice Chair. Absence is excused.

Also in attendance were: Valerie Kurth, Hailey Graf and Ginger Kauffman, FCD staff; Leo Rosenthal and Kenny Breidinger, MFWP; Susan Hulslander, CPA; Lew Weaver.

MINUTES

Punctuation correction made on page 2. Spelling correction made on page 5. Mark Siderius motioned "to approve the minutes of the November 26, 2018 business meeting as corrected." Dean Sirucek seconded. Motion carried unanimously.

CORRESPONDENCE

1. Email: Flathead Audubon newsletter *Pileated Post* www.flatheadaudubon.org
 2. Email: Montana Soil & Water Conservation Society is hosting a workshop "Plan, Prepare & Pass It On", February 5-6, 2019, in Billings. This 2-day event will be focused on the importance of creating a plan for succession to ensure a strong future for family Ag businesses that will last through the generations! Contact Little Beaver CD, 406-778-2217, Ext. 111.
 3. Email: National Association of Conservation Districts (NACD) publications: *eResource, the Resource, Conservation Clips*
www.nacdnet.org
 4. Email: Montana Watershed Coordination Council newsletter *Watershed News*
<https://mtwatersheds.org>
 5. Email: Custer County Conservation District newsletter *Conservation Update*
carol.watts@mt.nacdnet.net
 6. Email: Soil & Water Conservation Districts of Montana (SWCDM) newsletter *The Montana Conservationist* <https://swcdm.org>
 7. Email: Soil Health Workshops topics will include inter-seeding dryland cash crops, hay systems, grazing systems, cover crop species & mixes. All workshops begin at 9:00 A.M.
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January 14, Great Falls, Holiday Inn
January 15, Three Forks, The Gathering Place
January 16, Billings, Big Horn Resort
January 17, Forsyth, Rosebud Fairgrounds
January 18, Sidney, MSU Extension Office

Go to <https://swcdm.org> and click on Events for more information and registration.

8. Email: Montana Working Lands Internship Program. Program Mission & Goals - *The West is losing experienced land stewards. Our goal is to prepare the next generation of land stewards. In this unique opportunity, we are providing ranching experience and a rancher's pragmatic perspective on resource management to students who may later pursue careers in resource management in either government or the private sector.* This internship is designed to offer beginning agriculturalists, natural resource and range specialists real-world and hands- on experience implementing the educational tools already gained. This paid internship will last for three months during the 2019 summer where interns will work, learn, and gain valuable insight from mentoring ranchers from across the state of Montana. A stipend of \$1,600 will be given at the end of each month with room and board supplied by the mentoring ranch and the possibility of 1-3 credit hours. Students are responsible for working with their advisor/professor to obtain credit hours. Sophomore, Junior, Senior or Grad students majoring in any natural resource related field are encouraged to apply for this opportunity. Contact: Stacey Barta, sbarta@mt.gov
9. Email: Western MT Grazing & Ag Conference, January 17-18, Double Tree, Missoula. Contact Lake County Conservation District 406-676-2841 Ex. 102
<https://lakecountyconservationdistrict.org/2019-western-montana-grazing-and-ag-conference/> OR <https://www.facebook.com/events/305783850038508/>

FINANCIAL

The following bills were reviewed:

1. Byte Savvy \$55.00
2. Flathead Beacon \$528.00
3. Lake County Conservation District \$500.00
4. Whitefish Lake Institute \$1600.00

John Ellis motioned "to approve the bills as presented." Dean Sirucek seconded. Motion carried unanimously.

PUBLIC COMMENT PERIOD: No one was present to comment on items not listed on the agenda.

Annual Financial Report: Susan Hulslander, CPA, presented the Annual Financial Report ending June 30, 2018.

John Ellis motioned "to approve the Annual Financial Report as presented." Lori Curtis seconded. Motion carried unanimously. Chair, Ronald Buentemeier signed the report.



310

Gabbert, FL2018049C, Bales Creek, complaint: Dean Sirucek showed photos and described Bales Creek as an intermittent stream in the area of the complaint, although it is perennial in other locations both upstream and downstream from the site. He noted that the well and pumphouse were located a substantial distance from the riparian area and were outside of the district 310 jurisdiction. Ronald Buentemeier asked what the complaint was about. Dean said the complaint stated the landowner drilled wells in the creek bed, which dewatered her well. However, the complainant's well is upstream from the well identified in the complaint. Kenny Breidinger stated the complaint also mentions an underground stream, which is probably referring to groundwater. Dean added that Bales Creek comes out of a narrow canyon, and it widens out and becomes a short alluvial fan at and around the complainant's property. This property is about half way down on the alluvial fan. That is where the stream becomes intermittent, until it gets below the fan and flows on the surface again. It was flowing the day we were there, farther downstream.

Dean described another situation they found while at site. There is a culvert crossing on the creek, and there are 2-3 dog cages on the fill that covers the culvert on the upstream side. Bales Creek is about 18-20 feet below the dog cages. The cages are clearly right on the fill right over the creek channel. Today I stopped by Flathead County Health Dept. and asked their environmental specialist if there are any laws pertaining to animal cages and how far they need to be away from a stream. There is nothing under county health law; however, they recommended contacting DEQ. He talked with Margarite Thomas at DEQ and showed her the photos. Margarite said it would come under the animal waste handling requirements. Dean further explained that the landowners, who he is remotely acquainted with, now live out-of-state and there are renters on the property. He did not think the landowners were aware of the dog cages. Dean proposed that rather than forwarding this as a complaint to DEQ, we add language to the complaint response letter or send a separate letter to inform the landowner of the potential problem with animal waste that should be addressed. Mark Siderius expressed that the two issues should be treated separately because we will send them a letter saying there was not a 310 violation, and this should not be confused by suggesting a different violation with a different agency may exist. Dean could potentially send his own letter to the landowner. Lori Curtis asked Dean if he was comfortable with doing a separate letter. Dean stated he would either write or call them. He liked documenting the situation through the district so there is a public record; otherwise, the situation would probably continue. Mark stated that he thought we are overstepping our jurisdiction with this, but he did not dispute that the landowner should know about the cages. Dean replied that he does not know the best way to handle this. Leo Rosenthal stated that he agreed except that these kennels are a dog structure that was built right on top of the bank. Like any other project built on the bank, our rules specify construction materials because we are concerned about runoff. This essentially a dog kennel constructed over the culvert, with dog waste running off into the stream. He agreed with Dean and added that it is similar to a project we would normally take jurisdiction over. Mark said a complaint would have to be filed before we could address it, and one of us could submit it. Kenny stated this is a situation where we saw potential violations, but not the violations that were alleged. He did not think the culvert had been there for very long. Kenny added that the dog kennel is noted in the complaint. It is written as part of the response to the question about whether the complainant has personally viewed the site of the alleged violation, but not



under the description of the activity. Ronald Buentemeier stated if we want to include the dog kennels, we should first contact the county attorney's office to make sure it is an appropriate way to handle it. Mark noted we could table the complaint, contact the county attorney's office, then discuss it at the next 310-meeting. Other supervisors agreed that asking Caitlin how to handle the dog kennels as a secondary issue to the complaint would be a prudent way to handle the issue. Ronald asked if the landowner or the renter installed the well. Dean and Kenny thought the landowner did. Ronald then asked about who had installed the culvert. Dean thought that it had been there for several years because red osier dogwood was growing around the culvert and it takes a while for that to grow in. Kenny noted that he did closely examine the culvert but noted there was disturbed soil over the top of it. There may have been recent work on the surface.

Dean Sirucek motioned "to table the complaint until the next 310-meeting, and have Valerie Kurth contact the County Attorney's office for advice." Mark Siderius seconded. Motion carried unanimously.

Heinrich, FL2018071, Haskill Creek, beaver dam removal: John Ellis explained that the application is to remove a beaver dam above the gaging station. Kenny Breidinger added that the Whitefish Lake Institute is the applicant and they provided photos in the application. It is a small structure with no associated lodge. Ronald Buentemeier stated he was not sure it is a beaver dam and noted that garbage sacks have collected in the debris. Kenny Breidinger agreed to waive the onsite inspection.

John Ellis motioned "to approve the application as submitted. The 15-day waiting period is waived." Mark Siderius seconded. Motion carried unanimously.

Krost, FL2018070C, Stillwater River, complaint: Verdell Jackson reviewed the complaint and motioned "to send the standard complaint letter to the landowners." Mark Siderius seconded. Motion carried unanimously.

Verdell noted that he would not be comfortable viewing the site from the complainant's property as offered by the complainant. Mark Siderius replied that Verdell would view the site with the landowner on the landowner's property. The complainant does not attend the onsite inspection.

Morton, FL2018044C, Whitefish River, complaint: Ronald Buentemeier stated that the letter requesting a meeting with the City of Whitefish had been sent, however a response has not yet been received.

Ronald Buentemeier motioned "to table the complaint waiting for more information from the City of Whitefish." John Ellis seconded. Motion carried unanimously.

Smith, FL2018068, Swan River, dock, gangway, steps, deck: Leo Rosenthal reported that he and Pete Woll did the onsite inspection. The landowner built the stairway down the bank before he knew that he needed a permit, but it was built as we would have recommended. It is a wooden structure, only a small amount of vegetation on the bank was removed, and it was anchored with 4x4 steel tubing. The landowner would like a floating dock connected to



the stairway. The proposed dock meets most of our specifications. The length, including the gangway is 23 feet. Our Adopted Rules specify a maximum of 20 feet, but it is an area of the Swan River that is very shallow, so he and Pete approved of the length to get the appropriate depth. Ronald Buentemeier reviewed the considerations in the Team Member Report.

Mark Siderius motioned “to approve the application as submitted.” Lori Curtis seconded. Motion carried unanimously.

Weaver, FL2017060, Flathead River, permit addendum request: Kenny Breidinger stated that the district permitted some rip rap last year at this location. The lift station has a wooden headwall and some boards are bowing out. Mr. Weaver would like to excavate behind the boards, replace the bowed boards, and then re-fill the material. Dean Sirucek asked how close the project is to the river. Kenny stated the project is right on the river/levee, and the boards are inundated during high water. The work would be done during low water.

Mark Siderius motioned “to approve the permit addendum/modification as submitted.” Lori Curtis seconded. Motion carried unanimously.

Weaver, FL2018067, Flathead River tributary, silt removal: Kenny Breidinger explained that a small tributary stream flows past the water bottling plant and exits into the river. This is a short spring-fed drainage. There are culverts with standing pipes that alter the grade of the stream and have probably been there for a long time. The stream does not transport bedload and fine sediments build up. Quack grass and some cattails are growing in it. The purpose of the application is to remove the silt and restore the flow.

Lori Curtis asked if he and Pete Woll feel this a good solution. Kenny responded yes. Dean Sirucek asked if the water is washing over the pipes. Kenny responded there is a road crossing with a pipe by the plant. It is a horizontal, L-shaped pipe with a vertical standing pipe on the end. The water flows in and makes a 90 degree turn so there is no way for it to pass sediment, and it gets caught at the road crossing. John Ellis asked why they don't remove the pipe and redo the culvert? Kenny responded that it is a possible solution at the upstream crossing site. However, the downstream crossing is an older site that was recently replaced by the county with a similar structure. Mark Siderius added that the channel drains water from multiple springs above it and he thinks no maintenance has been done for a while. Mark asked Lew Weaver if he has done any maintenance. Lew replied that he and his neighbors have periodically removed sediment as needed. However, he now understands that he needs a permit to do that work and would like to do things correctly. He added that if the culvert was taken out, sediment would still come down from the springs above and would likely cause more issues. Dean asked what Lew's process is for removing the sediment. Lew stated he would use a small excavator, and the sediment would be placed up on the field. Approximately 2-3 dump truck loads need to be removed from the area behind the house. Kenny agreed that it's not much material. Lew and Kenny showed photos in the application and described the stream as wider in some areas where sediment has filled in. Mark noted that the water is slack in the spring, so there is no outflow for the



sediment and the springs add substantial sediment from above. Kenny agreed and added that the L-shaped county culvert further limits sediment passage.

Mark Siderius motioned “to approve the application as submitted” Verdell Jackson seconded. Motion carried unanimously.

NEW BUSINESS

Complaint Procedures: John Ellis stated that last week Rebecca Norton called him to report someone moving equipment onto the bank of Whitefish River west of Baker Avenue at the footbridge. She was concerned about what they were doing. John went to the site and observed a mechanical lift being used to cut a willow tree on the streambank. John asked the operator if he had a 310-permit to work on the streambank. The operator called the landowner, who talked with John. The owner did not have a permit, but he had talked with the City of Whitefish and had been told he did not need a permit. He said he would come to the district office to get a permit application. Valerie Kurth noted he came in, but the application has not yet been filed. John then told Rebecca to file a complaint. Valerie noted that no complaint has been filed. Rebecca then asked why the district did not have cease and desist procedures. John asked if we had cease and desist procedures and if he could have filed the complaint himself. Ronald Buentemeier stated that Donald MacIntyre has advised us to do so, but Ronald had reservations about doing it because his experience of filing a complaint was not a good one.

John clarified the location – it is downstream of the footbridge and happens to be where the water flows in from a trench that the City of Whitefish built to drain water off of Geddes Avenue. He noted that during heavy rains last October, the upper section washed away, and he expressed concern about bank stability if the root wad was removed. Ronald asked if a permit was obtained from the City of Whitefish arborist to cut down the willow tree. John stated he would check in to this.

Mark Siderius asked if they were just trimming the tree or were going to remove the whole thing. John had not asked them that question. Mark stated even if a golden willow is cut way down it will keep growing, but it would be a concern if they excavate the stump. Ronald added that the stump and root system are important for the stability of the streambank. He agreed that willow is aggressive and difficult to kill. In regard to the cease and desist order question, Mark explained that we would have to request the county attorney to issue one, which would take time.

The board and Kenny discussed recent permitting challenges in Whitefish related to the construction of the trail along the Whitefish River and FWP’s environmental assessment process. They also discussed projects in the vicinity of Riverside Park in Whitefish, including docks, trails, and bridges.

John asked Kenny Breidinger and Leo Rosenthal if FWP has a complaint procedure similar to the District’s, and Leo said it did not. Mark asked how one would complaint about something in the public (124) jurisdiction. Leo explained that the 124 process does not have a violation procedure. Kenny offered to look into ongoing actions that require a permit, such



as the work Flathead County is doing near the old steel bridge. He added that since FWP owns that particular site, he could not permit it, and, instead, Jonathan Ferree, from the state office, had had handled it.

Advertising Agreement: Hailey Graf presented the 2019 Flathead Beacon advertising contract and noted that the cost is the same as last year.

Mark Siderius motioned “to approve the 2019 Flathead Beacon advertising contract.” Lori Curtis seconded. Motion carried unanimously.

Western MT Grazing & Agriculture Conference (WMG&AC): Valerie Kurth stated with the donation for the conference we receive 2 free registrations. She asked the board to approve travel and lodging for herself and Hailey Graf and noted that the hotel is \$95 per night. Valerie added that they would also set up a table at the conference. Supervisors are encouraged to attend at a cost of \$50 each.

Lori Curtis motioned “to approve travel and lodging for Valerie Kurth and Hailey Graf to attend the WMG&A conference.” John Ellis seconded. Motion carried.

Montana Lakes Conference (MLC) Early Registration: Valerie Kurth stated the conference will be held in March. The early registration closes January 9th and the early bird registration rate is \$175. Valerie will be moderating one of the sessions. Lori Curtis noted if more than 3 people attend, the registration rate for the third and any additional people is \$100 each. Valerie noted that presenters do have to pay registration, and that she and Hailey Graf would like to attend. Valerie asked supervisors to contact her by January 9th if they want to attend. Ronald Buentemeier and Verdell Jackson both stated they would attend.

Mark Siderius motioned “to approve the registration for anyone (staff or board) wanting to attend the Montana Lakes Conference.” Lori Curtis seconded. Motion carried unanimously.

DEQ Grant #218013 Cow Creek: Valerie Kurth stated the annual report for the Cow Creek grant is ready to submit, and the Whitefish Lake Institute billing invoice in the amount of \$103.10 needs to be approved for submittal to DEQ.

Dean Sirucek motioned “to approve the DEQ grant 218013 Cow Creek invoice.” Lori Curtis seconded. Motion carried unanimously.

DNRC Grant #23G-18-3598 Watershed Symposium: Valerie Kurth stated the district is sponsoring the grant on behalf of the Montana Watershed Coordination Council (MWCC). The symposium is done, and paperwork was submitted to her on Thursday but there were some issues with some of the documentation. MWCC will re-submit their grant paperwork next week. As there is no business meeting in December, Valerie will do a phone poll.



Cost-Share Partial Payment: Valerie Kurth reported the cost-share weed control project for Kermath was approved last summer. The project is large and they have asked for payment of work completed to date. The FCD share of the invoice is \$592.50.

John Ellis motioned “to approve payment in the amount of \$592.50 to Kermath’s for their cost share project. This is a partial payment of the total cost.” Dean Sirucek seconded. Motion carried unanimously.

Office Closure: Mark Siderius stated he had talked to Pete Woll. Christmas Eve is on Monday and traffic in the office will be slow. Rather than having staff take time off, they would like to close the office on December 24.

Mark Siderius motioned “to close the office December 24th for the Christmas holiday.” John Ellis seconded. Motion carried unanimously.

MATTERS OF THE BOARD/STAFF

Outreach Materials: Following the 310-work session, Hailey Graf looked into using the infographic from the DNRC Stream Permitting Book. She said the graphic was too small and its resolution was too low to be easily replicated in other educational materials. She was unable to find a suitable alternative. For this reason, she created a new graphic for the District’s use that includes terms from the District’s Adopted Rules. She also drafted examples of accompanying text that can be used in different formats such as the website, Facebook, or brochures, and she described the benefits of using the infographic for outreach. She shared the graphic and text with the board and FWP and requested input. Lori Curtis asked for Ronald Buentemeier’s opinion, and he affirmed that it communicated what he thought it should. Leo Rosenthal expressed that the graphic works well to demonstrate all the points they discussed at the 310 Work Session. Lori suggested that the caption be justified left and John Ellis suggested the arrow depicting stream channel be moved lower so people do not assume it indicates the area between the two trees. Hailey agreed to edit it per their suggestions. Hailey added that the previous infographic misled people to assume they could determine if a permit was needed. The wording accompanying the new infographic will hopefully prevent this misunderstanding in the future. Leo added that it would look nice in handouts and Lori offered to let the District post a table at the Montana Lakes Conference where 310 permit information could be displayed.

2019 Calendar: Staff and supervisors were provided with the 2019 payroll/meeting calendar.

STAG Meeting: Dean Sirucek reported he will be attending the Statewide TMDL Advisory Group (STAG) meeting on January 3rd.



Flathead County Planning Board: Dean Sirucek asked the board for feedback regarding his representing the Flathead CD on the Flathead County Planning board. He asked if the board wanted to be informed when controversial issues come before the Planning Board and have some discussion before he voted. The supervisors had different opinions about this but agreed that Dean should do the best he can, just as any of the supervisors who represent the district on other boards.

Legislative Breakfast: Ronald Buentemeier thanked everyone for the tremendous work done on the legislative breakfast.

Grazing: Ronald Buentemeier voiced his concern regarding complaints and noted that grazing activities do not fall under the jurisdiction of the 310-law. Other supervisors expressed opinions that the Adopted Rules outline the standard complaint procedure, which we should follow unless we revise the rules to allow for an alternative procedure for complaints about livestock grazing. Mark Siderius cited a recent example that involved a complaint about livestock grazing activities that had a positive outcome.

The next 310-meeting is scheduled for Monday, January 14, 2019, 7:00 P.M. in the conference room of the USDA building at 133 Interstate Lane, Kalispell.

The Board thanked Mark Siderius for his time on the board and expressed their appreciation for his expertise. Adjournment: Mark Siderius motioned “to adjourn.” Verdell Jackson seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:23 P.M.

Submitted By:

Ginger Kauffman
Administrator

Hailey Graf
Assistant Conservationist

Valerie Kurth
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>1/14/2019</u>	<u>Ronald Buentemeier</u>	<u>Chair</u>
(Date)	(Signature)	(Title - Chair etc.)

